

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 5:04CR327
)	
Plaintiff,)	
)	
v.)	JUDGE PETER C. ECONOMUS
)	
GARY NEAL,)	
)	
Defendant.)	<u>ORDER</u>

On December 14, 2004, Gary Neal, defendant, was sentenced to fifty-three (53) months imprisonment, followed by three (3) years of supervised release, for three counts of bank robbery. He was also ordered to pay restitution of \$5,201.00, all of which remains unpaid. His supervised release commenced on April 24, 2008.

On February 4, 2009, the Defendant's probation officer submitted a violation report alleging the following two (2) violations:

1. Absconding from 6 month halfway house placement at Oriana House, Inc. - On 02/03/2009, at approximately 12:15 p.m., Mr. Neal was seen by Oriana House staff walking out of the front door of the Oriana House facility and getting into a car and driving off in a fast manner. Mr. Neal is in violation of the Oriana Housing Policy as he was on restriction and not allowed to leave the facility, current whereabouts unknown.
2. Use of Illicit Substances - Mr. Neal left a voicemail message on this officer's voicemail indicating he had relapsed and is once again using illicit substances.

This matter was referred to Magistrate Judge George J. Limbert, who issued a warrant

for the Defendant's arrest. On March 11, 2009, the Defendant, represented by Attorney Damian Billak, appeared before the Magistrate Judge and admitted to both alleged violations. Magistrate Judge Limbert issued a report and recommendation that the Court find that the Defendant has violated the terms of his supervised release. (Dkt. # 83). The Defendant came before the Court for sentencing on the instant violation on March 19, 2009.

The Court has considered the statutory maximum sentence of two (2) years pursuant to 18 U.S.C. § 3583(e)(3). The Court also has considered the advisory policy statements set forth in Chapter Seven of the United States Sentencing Guidelines prior to imposing sentence. The guideline range is 5-11 months pursuant to U.S.S.G. § 7B1.4(a). The Court further has considered the factors for sentencing listed in 18 U.S.C. § 3553(a) and 3583(d).

The Court hereby **ADOPTS** the Magistrate's Report and Recommendation. (Dkt. # 83). Based on this Court's review of all relevant factors, the Court hereby orders that the Defendant's supervised release is **REVOKED**, and the Defendant is committed to the custody of the Bureau of Prisons for a period of eleven (11) months. Furthermore, the Defendant's remaining term of supervised release is hereby terminated. Defendant is no longer subject to supervision.

The Court further orders that the Defendant's restitution obligation shall remain.

IT IS SO ORDERED.

Issued: March 19, 2009

s/ Peter C. Economus
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE